IN THE HIGH COURT OF JUDICATURE AT BOMBAY
A.S.
Writ Petition No.3l62 of 2004

Ramappa R Habbu and ors ....Petitioners
vs
Sidheshwar Devasthan Panch
Committee Solapur & ors...Respondent

Mr.V.A.Thorat Sr Advocate with Mr Vaibhav Sugdhare
i/b M/s Thakordas and Madgavkar for petitioners

Mr V.V.Tulzapurkar Sr Advocate with Mr G.S.Godbole
with Mr Surel S.Shah for respondent nos.l to 7
Mr N V Walawalkar with Mr. G.H.Keluskar for
respondent nos 9 to l3

CORAM: S.U.KAMDAR J.

Dated 30.ll.2005

P.C:

l. Rule, returnable forthwith.

2. The orders which have been passed by the District Court Solapur in Misc Civil Appeal No.ll0 of 2003 are quashed and set aside. The order proceeds on the footing that the issue of resjudicata can be determined at the final hearing of the application under section 4lE of the Bombay Public Trusts Act, l950. However, it has been overlooked by the appellate court that the main application itself has been disposed of by the Charity Commissioner and there is nothing pending in which the said issue can be determined. In that view of the matter there is an exfacie error

apparent on the face of the order . In that light of the matter, the impugned order is set aside. The matter is remitted back to the District Court Solapur for hearing the matter afresh and consider the issue of resjudicata raised before it and decide the appeal finally. The district court is directed to dispose of the appeal on or before 3l.3.2006.

3. In the meantime, by consent of the parties, the collection box of dan to be opened by the Charity Commissioner in the presence of the representatives of both the parties and account the same and invest the moneys in any nationalised bank on temporary fixed deposit initially for the period of six months.The said amount will be abided by the final orders to be passed in the appeal.

. Petition is disposed of accordingly with no order as to costs.